

## **Open Meetings Act and Freedom of Information Act Requirements and Best Practices**

The Open Meetings Act (“OMA”) was amended June 12, 2020, to give additional guidance for public bodies conducting meetings during the COVID-19 pandemic. This document outlines the new OMA requirements and provides reminders for complying with the OMA and Freedom of Information Act.

### **The Requirement for Physical Presence of a Quorum for LSC Meetings - OMA Now Allows Virtual Meeting Under Certain Conditions**

The amendment to the Open Meetings Act provides that LSCs are allowed to hold “open or closed meetings by audio or video conference without the physical presences of a quorum of the members” during a public health crisis if the following conditions are met:

- The Governor or Illinois Department of Public Health Director have issued a disaster declaration and the public body’s jurisdiction is covered by the disaster proclamation
- The head of the public body determines that the in-person meeting is not practical or prudent because of a disaster.

### **Convenient and Open Meetings**

The OMA requires public meetings to be “convenient and open” to the public. To comply with this requirement, LSCs must adhere to the following:

- All members of the LSC participating in the meeting must be verified as members and be able to hear each other, all participants, discussions, and testimony;
- All votes must be conducted by roll call and each member’s vote on each issue must be identified and recorded;
- At least one member of the LSC must be physically present at the regular meeting location unless the physical presence is “unfeasible due to the disaster.” The principal is the recommended member to be present at the school building in the event the meeting is held virtually. Principals are recommended as they are in school buildings daily.

### **Public Attendance and Member Participation in Online Platforms**

- Meetings may be held on web-based platforms if it is not possible to hold in-person meetings due to the declared public health disaster.
- LSCs must use a web-based platform that allows all interested parties the ability to hear all discussion, testimony, and roll calls votes as the meeting progresses. LSCs should consider using web-based platforms that have a capacity to have at least 250 persons and have conference line capabilities, where members can call and listen to the meeting. The platform used must also have the capability to record the virtual meeting.

## **Notice Provisions**

- LSCs must provide at least forty-eight (48) hour notice in advance of LSC meetings and post the notice of the meeting and agenda at the school.
- The meeting notice shall be physically posted at school
- Per the OMA, if the LSC has a website that is maintained by the full-time staff of the LSC the meeting notice and agenda shall be posted. It shall remain posted until the end of the meeting.
- If news media organizations request notice of the meeting, it must be shared with the media organization.
- Website links for remote meetings and conference lines numbers should be included in the meeting notice.

## **Recordings**

- The OMA amendment now requires LSCs to keep a verbatim recording of all remote open session meetings in the form of an audio or video recording.
- The verbatim recording must be made available to the public and must be maintained for at least 18 months after the meeting was held.
- The verbatim recordings of the open meetings should be maintained in the same manner recordings of closed sessions are retained. REMINDER: Closed sessions recordings are NOT required to be made available to the public.

## **Minutes**

- LSCs must keep written minutes of all their meetings, whether open or closed and keep a verbatim record of all closed meetings in the form of an audio or video recording
- The minutes must include:
  - the date, place and time of the meeting;
  - if the members present and how the members were present (physically, video or via audio)
  - summary of all the matters proposed, discussed, and decided and record of any votes taken.
- The LSC shall approve the minutes of the open meeting within 30 days of the meeting or at the next regular meeting, whichever is later.
  - The minutes shall be available to the for public inspection within 10 days after approval of the minutes
- If the LSC has a website that is maintained by the full-time staff of the LSC, the meeting minutes shall be posted on the LSC website.

## **Public Comment**

- The OMA requires that LSCs allow interested parties to provide public comment.
- Public comments can be gathered by several methods, including written submission, and email, and reading those public comments into the record at the meeting.

- During remote meetings, public comments can be given via telephone or video conference in addition to email or written comments read into the record.
- Public Comment should be included on the agenda
- LSCs may set reasonable limits on the length of public comment and the amount of time each speaker is allowed to address the LSC. For example, public comment may be one hour with each speaker given two minutes to address the LSC.

### **Voting**

- Any potential matter in which the LSC will vote to take action should be listed on the agenda for the meeting.
- The chair should announce the matter with specificity on which the council is about to vote on before calling the roll call vote.
- Roll call votes are required for all matters voted on during the meeting.

### **OMA Best Practices**

- Members of the LSC must complete OMA training within 90 days after taking the oath of office or assuming responsibilities. To register for the OMA and FOIA training click [HERE](#).
- The Office of Local School Council Relations strongly recommends that LSCs work collaboratively with their respective CPS Principal or designee to use Google Meet to hold virtual meetings. The Google Meet platform used by CPS schools has a capacity of up to 250 people and has a conference line, where people can dial into and hear the meeting.
- Include information on how public comments will be received and shared during the meeting. It is recommended that rules for public comment be included on the LSC agenda if you do not have public comment rules in the LSC bylaws. Consider creating a public comment sign-up form where people can sign up for public comment.
- If the LSC does not have a website, work with the school principal to post LSC notices for all remote meetings and agendas on the school's website and social media platforms.
- If the LSC does not have a website, work with the school principal to post video and audio recordings of LSC meetings on the school website.
- Moving into closed Session, the LSC chair must announce why the LSC is moving into closed session, during an open session, and indicate the reasons for moving into closed session per the OMA. Finally, remember to take a roll call vote in order to move into a closed session.
- Remember not to adjourn the LSC meeting while in closed session. The LSC must re-enter the open session and adjourn the meeting.

### **Freedom of Information Act (“FOIA”) Guidance**

There have been no amendments to the Freedom of Information Act (“FOIA”) as a result of the COVID-10 pandemic. The below-listed items include requirements and best practices for complying with FOIA requests.

## **A requirement that a public body has a FOIA Officer**

- All LSCs are required to have a FOIA Officer. If a functioning LSC has yet not designated an FOIA officer, they are required by Illinois law to do so. (5 ILCS 140/3.5)
- That designated FOIA Officer must complete a short and free electronic training webinar at the Illinois Attorney General's website (<http://foia.ilattorneygeneral.net/>). Keep the certificate of completion for your records.
- If the school that has received a FOIA request has a functioning LSC with a quorum, the LSC's designated FOIA officer is responsible for responding to the FOIA requests.
- If the school DOES NOT have a quorum/functioning LSC, the principal should forward the request to the Office of Local School Council Relations (OSLCR) and the CPS FOIA office. The CPS FOIA office will work with the principal to determine how best to respond to the request.

## **Timeframe for Responding to an FOIA request**

- LSCs have five business days to respond to a FOIA request and can request an additional five business days by citing one or more reasons allowed under 5 ILCS 140/3(e) for an extension to respond.

## **Providing Records for an FOIA Request**

- If the request asks for records that the LSC has access to, such as approved meeting minutes and/or the audio or video recordings from virtual meetings, they should be released.
- If your school did not record the meeting being requested, that must be relayed in the response.
- If the request seeks meeting minutes that may not have yet been approved by the LSC, you may opt to withhold them as drafts until they are formally approved by the LSC. To do so, the FOIA officer must state they are being withheld under 5 ILCS 140/7(1)(f), which is the applicable exemption covering drafts, preliminary and unfinalized records under the statute.
- However, if the request is asking for records that the LSC would not normally have, the appropriate response to the FOIA is to say the LSC has no responsive records and the requestor may wish to submit the request directly to the District at [www.cps.edu/FOIA](http://www.cps.edu/FOIA).

## **Sharing A Recording of a Remote Meeting pursuant to a FOIA Request**

- Members of the public may request a copy of a remote meeting recording. To share a Google Meet recording of a virtual meeting that has been saved to the Google Drive, adjust the settings to allow you to share with "Anyone with the Link."

If you have recorded a meeting using Zoom, it is recommended that you upload the Zoom recording to a cloud sharing service platform like Dropbox, Box or Google Drive. Once the recording is saved in the cloud service platform, you can then share the link

with the requestor via email. DO NOT SHARE A RECORDING OF A CLOSED SESSION.

### **FOIA Best Practices**

- List LSC information on your school website, including the names of current members, their roles (President, Vice-President, FOIA officer, etc...), agendas for upcoming meetings, and approved minutes for past meetings.
- If LSC materials are available on your school's website, most FOIA requests will become unnecessary and requesters can be easily referred to the school's website.
- While all LSC members are required to take OMA training, all LSC members are encouraged to take the FOIA training above, even if they are not the designated FOIA officer. To register for the OMA and FOIA training click [HERE](#).